49 L. R. A. (N. S.) 1123; *People* v. *Sperry and H. Co.* (Mich., 1917), 164 N. W. 503. The principal ground of these decisions is that such statutes are an unjust suppression of a legitimate method of advertising, and not of a scheme involving elements of lottery. Trading stamp statutes have been upheld in *Dist. of Columbia* v. *Kraft,* 35 App. D. C., 253; 30 L. R. A. (N. S.) 957; *State* v. *Pitney,* 80 Wash. 699; overruling *Leonard* v. *Bassindale,* 46 Wash. 301; *Rast* v. *Van Deman and Lewis Co.,* 240 U. S. 342, L. R. A. 1917A 421; Ann. Cases 1917B 455; *Tanner* v. *Little Id.* 369; *Pitney* v. *Washington, Id.* 387; and *State* v. *Wilson* (*supra*). Most of the more recent decisions have upheld these statutes primarily on the contention that it was not unreasonable to say that the trading stamp business involves elements of lottery, and that it is not merely advertising. "Advertising is identification and description, apprising of quality and place. It has no other object than to draw attention to the article to be sold." *Tanner* v. *Little* (*supra*). It is to be noted that there is some diversity among the statutes which may justify some of the diversity in the decisions. In *Humes* v. *City of Little Rock,* 138 Fed. 929, the court said the case of *Lansburgh* v. *District of Columbia,* 11 App. Cases 512, holding the statute there constitutional, was clearly distinguishable. "The Act of Congress governing the District prescribes what is meant by gift enterprises and its definition precisely covers the trading stamp concern. That definition is not binding here * * * Then too the court in that case lays stress on the fact that the holder of the stamps could get nothing unless he accumulated stamps representing purchases to the extent of $99, and as few did that it was held the uncertainty of ever getting anything on the stamps introduced an element of chance. No such element exists in the case at bar." In *State* v. *Ramseyer,* 73 N. H. 31, the court said in distinguishing the case before it: "The case of *Humes* v. *Fort Smith,* 93 Fed. Rep. 857, relates to a regulation, not the prohibition, of the stamp business." See also *People* v. *Sperry and H. Co.,* (*supra*). Also ordinances relating to trading stamps will more readily be held unconstitutional under the more strict construction by the courts of the terms of the grants of powers to municipalities than of the terms of the grant of powers to the legislature in the state constitution. *State* v. *Wilson, supra.*

CORPORATIONS — FOREIGN CORPORATIONS — DOING BUSINESS WITHIN THE STATE—CORPORATE FRANCHISE TAX.—The Revised Statutes of Texas, 1911, imposed a franchise tax on any foreign corporation, as a condition to its right to do business in Texas, of a given percentage of all of the corporation's capital and surplus, representing all its property wherever situated, and all of its business both intrastate and interstate, thereby placing a tax on the corporation's property beyond the jurisdiction of the state for taxation purposes. *Held,* the statute was unconstitutional because it imposed a burden on interstate commerce and because of want of due process. *Looney* v. *Crane Co.,* (1917); 38 Sup. Ct. 85.

It is within the power of the state to levy an excise tax for the privilege of permitting a foreign corporation to exercise its franchise within the state. *Maine* v. *Grand Trunk Ry.,* 142 U. S. 228. Nor is there any limitation on

the method that the legislature may adopt as a means of measuring the tax. *Home Insurance Co.* v. *New York,* 134 U. S. 594. But the tax must be taken by due process of law and must not become a burden on interstate commerce. The court in the principal case admits that the state had authority and power to lay the franchise tax and the authority to control the business within the state of the foreign corporation and the right to tax the intrastate business of such corporation carried on as a result of permission to come in. But though the state has such power it must be exercised so as not to be inconsistent with the Constitution of the United States because the power of the state legislature is not paramount but subordinate to the U. S. Constitution. The court hastily disposes of the cases cited by counsel contending that the statutes are not repugnant to the Constitution of the United States; *Baltic Mining Co.* v. *Mass.,* 231 U. S. 68; *St. Louis Southwestern Ry.* v. *Arkansas,* 235 U. S. 350; *Kansas City, Memphis Ry.* v. *Botkin,* 240 U. S. 227, by merely saying "the cases relied upon contain nothing expressly purporting to overrule the previous cases, but on the contrary in explicit terms declared that they did not conflict with them and that they proceeded upon conditions peculiar to the particular cases". The court bases its decision upon the substance of the tax, the particular provisions contained therein, the subject matter and the amount. The tax must be of such a character and of such an amount as not to be a burden upon the corporation's interstate commerce. *Williams* v. *Talladega,* 226 U. S. 404. The instant case shows clearly that the state can impose a tax—by whatever name it chooses to call it—on a foreign corporation for the privilege of doing intrastate business and that such a tax can be measured by the corporation's entire wealth, be it situated wherever it may, but the amount must not be such as to burden the corporation's interstate business.

CRIMINAL LAW—SELF-INCRIMINATION—CONSTITUTIONAL PROVISIONS—EVIDENCE.—On the morning after a barn had been burned the sheriff traced footprints from the barn to a point near defendants' residence, and then compelled the defendants to walk back with him beside the trail and to remove their shoes in order that he might compare them with the footprints found. Defendants were not under arrest, and the sheriff was not acting under judicial process of any kind. *Held,* that the sheriff's testimony as to measurement and comparison of tracks thus obtained was admissible and that its introduction did not violate the constitutional provision against self-incrimination. *State* v. *Barela* (N. Mex., 1917), 168 Pac. 545.

The general rule has long been settled that the admissibility of evidence is not affected by the manner in which the evidence was obtained. 4 WIGMORE ON EVIDENCE, sec. 2183; *Rex* v. *Granatelli,* 7 St. Tr., N. S. 979; *State* v. *Fuller,* 34 Mont. 12. The constitutional provisions against unlawful searches and seizures and against compulsory self-incrimination are limitations upon this general rule. As to just what is the scope of these limitations the authorities are in confusion. The great weight of authority, however, seems to support the decision in the instant case, which places the test of admissibility upon "whether the evidence is compulsorily given by the